

FINDING OF EMERGENCY

Emergency promulgation of these regulations is necessary for the immediate preservation of the public peace, health and safety, and the general welfare. The following facts provide the finding of emergency:

1. Legislation enacted in 2002 (SB 1952, Stats. 2002, ch. 825 & SB 17, Stats. 2002, ch. 819) requires a licensed cemetery to employ a cemetery manager and a licensed crematory to employ a crematory manager to manage, direct and supervise. Business and Professions Code (BPC) Sections 9723.1 and 9787.2 were added to ensure that all cemeteries and crematories are managed by a person who has been examined **and** licensed by the Bureau.
2. This legislation was sponsored by the Administration to address recent scandals in the cemetery and crematory industries.

The Bureau's February 2000 discovery of more than 500 pieces of human bone and casket material in Compton's Woodlawn Cemetery emphasizes the necessity to actively enforce the laws governing cemetery practices. The Bureau's accusation alleged illegal disinterments, desecration of graves, and improper use of cemetery trust funds. Ultimately, the Department revoked the cemetery's license, and placed Evergreen Cemetery in Los Angeles, operated by the same owners, on probation for five years. The owners also plead guilty to criminal charges as a result of the Bureau's criminal investigation of the cemetery's operations.

In February 2002, the grisly discovery in the woods near a Georgia crematory where a crematory owner had discarded more than 330 bodies human bodies instead of cremating them has raised public outcry about the oversight of the funeral, cremation and cemetery industries. To make sure that the events that took place in Georgia do not occur in California, and to protect consumers against cemetery and crematory fraud, this legislation will license cemetery and crematory managers, require annual cemetery inspections, and strengthen penalties for mishandling human remains and filing false burial documents.

3. The Legislature has found and declared that "Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California" (BPC Section 145). Furthermore, without implementing these licensing provisions, the Bureau cannot keep a person who has committed such acts as those in Georgia and at Woodlawn Cemetery in California from acting as a manager of a crematory or cemetery.
4. Existing law requires a person be examined and qualified to act as a manager of a cemetery or crematory. There are currently no requirements for licensure or for a cemetery or crematory to notify the Bureau who the manager is, other than at the time of the initial filing of an application for a certificate of authority (cemetery) or crematory license.

5. The proposed regulations will specify the fee amounts to be charged for examination, licensure, renewal, reporting a change of cemetery or crematory manager, and define the requirements for sharing a cemetery manager. Without the proposed regulations, the Bureau is unable to schedule licensing examinations for 2003 or implement licensing requirements authorized by SB 1952.

Informative Digest

The Cemetery and Funeral Bureau, through these emergency regulations, will begin the process of licensing cemetery and crematory managers; and requiring cemeteries and crematories to notify the Bureau of any change in manager or request to share a responsible cemetery manager.

Prior to January 1, 2003, existing law required persons identified as a cemetery or crematory manager to pass an examination administered by the Bureau. Successful candidates received a letter indicating that they passed the examination and were required to send a copy of their pass letter to the Bureau with a letter from an owner or corporate officer appointing them to act as the responsible manager of a cemetery or crematory.

SB 1952 mandates that all designated cemetery and crematory managers be licensed by the Bureau. Unless the attached emergency regulations are promulgated, there is no authority to charge appropriate examination fees or allow anyone to obtain a license to comply with the statutory requirements.

These emergency regulations make specific the requirements of SB 1952 by adding Title 16, California Code of Regulations, Division 23, sections 2317, 2317.1, 2317.2 and 2326.5.

Authority: Sections 9630, 9723, and 9787.2, Business and Professions Code.

Reference: Sections 9764.1, 9764.2, and 9764.3 Business and Professions Code.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Bureau has determined that the proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Bureau has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs or businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Bureau has determined that this regulatory proposal will not have a significant impact on private persons or entities.

Housing Costs: None